

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 48213 and 48214,
Statutes 1978, Chapter 668,

Filed on March 9, 1994;

By the San Diego Unified School District,
Claimant;

No. 04-PGA-28 (CSM-4457)

Pupil Exclusions

AMENDMENT OF PARAMETERS AND
GUIDELINES PURSUANT TO
GOVERNMENT CODE SECTION 17557
AND TITLE 2, CALIFORNIA CODE OF
REGULATIONS, SECTION 1183.2

(Adopted on December 9, 2005)

AMENDED PARAMETERS AND GUIDELINES

On December 9, 2005, the Commission on State Mandates adopted the attached Parameters and Guidelines Amendment for the *Pupil Exclusions* program. The period of reimbursement for the activities in this parameters and guidelines amendment begins on January 1, 2005, and October 7, 2005, as specified.

Date: December 14, 2005

PAULA HIGASHI, Executive Director

PARAMETERS AND GUIDELINES AMENDMENT

Education Code Section 48213

Education Code Section 48214

Statutes 1978, Chapter 668

Pupil Exclusions

04-PGA-28 (CSM-4457)

I. SUMMARY OF THE MANDATE

On March 27, 1997, the Commission on State Mandates (Commission), adopted a Statement of Decision finding that certain provisions of Education Code sections 48213 and 48214, as added by Statutes 1978, Chapter 668, imposed a new program or higher level of service upon school districts within the meaning of article XIII B, section 6 of the California Constitution, and costs mandated by the state pursuant to Government Code section 17514 for the following activities:

- Reporting to the governing board the facts relied upon to support a decision to exclude a child from attendance pursuant to Health and Safety Code section 3118 and Education Code section 49451. (Ed. Code, § 48213.)
- Reporting to the governing board the facts relied upon to support a decision to exclude a pupil when it is determined that the pupil's continued presence at school would constitute a clear and present danger to the life, safety, or health of pupils or school personnel. (Ed. Code, § 48213.)
- Including in the notice to the pupil's parent or guardian: (a) a statement that the parent or guardian shall have the opportunity to inspect all documents which the governing board relied upon in its decision to exclude or propose to exclude; (b) a statement that the decision to exclude the child is subject to periodic review; and (c) a statement of the procedures set by the governing board for such periodic review. (Ed. Code, § 48213.)
- Allowing the parent or guardian of a pupil who is 18 years of age or older to inspect all documents which the governing board relied upon in its decision to exclude or propose to exclude. (Ed. Code, §, 48213.)
- Adopting rules and regulations governing periodic reviews of its decisions to exclude pupils pursuant to Education Code section 48211. (Ed. Code, § 48214.)

Statutes 2004, chapter 895 (AB 2855, eff. January 1, 2005) repealed Education Code section 42814, and Statutes 2005, chapter 677(SB 512, eff. October 7, 2005) repealed Education Code section 48213, and added new section 48213.

II. ELIGIBLE CLAIMANTS

Any “school district”, as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

The period of reimbursement for the activities in this parameters and guidelines amendment begins on January 1, 2005, and October 7, 2005, as specified in Section V. below:

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

1. A school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).
2. A school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
3. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between October 15 and January 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

Reimbursable actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years’ costs shall be submitted within 120 days of the issuance of the State Controller’s claiming instructions. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, “I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct,” and must further comply with the requirements of Code of Civil Procedure section 2015.5.

Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

A. Rules and Regulations (*Reimbursement ends December 31, 2004*)

Adopting rules and regulations for periodic reviews of governing board decisions to exclude students pursuant to Education Code section 48211.

B. Exclusion Report

Reporting the facts supporting the pupil's exclusion to the governing board when the exclusion is based upon Health and Safety Code section 120230 (former section 3118) or Education Code section 49451, or when the pupil's continued presence at school would constitute a clear and present danger to the life, safety or health of other pupils or school personnel. The school principal or other responsible school official may make the report, which may be oral or written.

C. Specified Statements in the Exclusion Notice (*Reimbursement ends October 6, 2005*)

Inclusion of the following statements in the governing board's written notice to the pupil's parent(s) or guardian(s):

1. a statement that the parent or guardian shall have the opportunity to inspect all documents which the governing board relied upon in its decision to exclude or propose to exclude;
2. a statement that the exclusion of the pupil is subject to periodic review; and
3. a statement of the procedures set by the governing board for such periodic review.

The required statements may be included by the attachment of a standard form or inclusion of 'boiler plate' text within the written notice, or by any other cost-effective method selected by the claimant.

D. Providing Access to Documents (*Reimbursement ends October 6, 2005*)

Providing access to the parent(s) or guardian(s) of the pupil who is proposed for exclusion to the following documents: upon which the governing board relied in its decision to propose exclusion, as follows:

1. If the pupil who is proposed for exclusion is 18 years of age or older, all documents upon which the governing board relied in its decision to propose exclusion, or
2. If the pupil who is proposed for exclusion is less than 18 years of age, those documents on which the governing board relied in its decision to propose exclusion which are not "education records" as defined in 20 U.S.C. section 1232g, subdivision (a)(4).

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the revised parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The revised claiming instructions shall be derived from the test claim decision and the revised parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(2), issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the revised parameters and guidelines adopted by the Commission.

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.